BEFORE THE CITY COUNCIL OF THE CITY OF AVENAL

IN THE MATTER OF:	**RESOLUTION 2024- 34**
Resolution Calling City Election for Voter Approval of Vacancy Tax and Adjustments to Transient Occupancy Tax Rate and Creating a Progressive Business License Tax Rate Structure; and Specifications of the Election Order.	

WHEREAS, approval of an excise tax on vacant or unoccupied commercial and residential spaces promotes the best use of real property and ensures that the City of Avenal ("**City**") has more local funding for vital City services which cannot be taken by the State, ensuring our tax dollars are spent locally for the benefit of residents of the City;

WHEREAS, when a City seeks voter approval of a new local excise tax, Article XIIIC § 2(b) of the California Constitution requires the election to be consolidated with the general municipal election for City Council members, except in cases in which a City Council has unanimously declared that there is a fiscal emergency;

WHEREAS, commercial and residential vacancies occur when a property owners, landlords or other persons in control of such properties fail to actively market commercial land, storefronts or uninhabited residences to viable tenants and/or fail to offer the property at a reasonable rate;

WHEREAS, prolonged vacancy of commercial and residential properties not only restricts or reduces the available supply of commercial land, buildings and housing, but can also decrease economic activity in the City, lead to blight and can increase the risk of structure fires when they become an attractive nuisance to unhoused individual;

WHEREAS, at a public meeting held on July 25, 2024 the City Council considered calling a municipal election to submit to the voters for approval, a proposed commercial and residential vacancy tax as authorized by California Government Code § 37100.5;

WHEREAS, the statutory deadline to authorize submittal of said commercial and residential vacancy tax measure to the County of Kings's elections office is scheduled to expire on or about August 9, 2024 for the November 5, 2024 regular election date and the County's administrative deadline for submittal of relevant documentation is on or about August 1, 2024;

WHEREAS, the new excise tax would be imposed upon the privilege of keeping specified commercial and residential spaces vacant, unoccupied or uninhabited. The tax rate would be: $250 per square foot of the frontage of such spaces to each public right-of-way, if the space was not vacant the prior tax year; $500 per linear foot the frontage of such spaces to each public right-of-way, if the space was kept vacant during two consecutive tax years; and $1,000 per linear foot of the frontage of such spaces to each public right-of-way in all other situations. If enacted, the new excise tax would become collectable under a future enacted ordinance prescribing procedures and rules for enforcement and collection of the new excise tax, which may include fines and penalties. Collection of all or any portion of the tax could be temporarily suspended by a unanimous vote of the City Council. The tax would require approval of at least a majority of voters voting on the measure and approval of this resolution by at least two-thirds vote of all members of the City Council;

WHEREAS, based upon all of the information presented to the City Council as of the date of this resolution, both written and oral, including the staff reports, minutes and other relevant materials, the commercial and residential vacancy tax, transient occupancy tax and progressive business license tax rate structure do not constitute a project under CEQA Guidelines 15060(c)(2), 15061(b)(3) and 15378(b)(2) and (4) and therefore review under CEQA is not required;

WHEREAS, the ordinance proposed to the voters would update and adjust the City's transient occupancy tax ("**TOT**") rate to 15% of the fees charged by hotels, inns, motels and similar accommodations, to make it comparable to those TOT rates commonly charged throughout the State;

WHEREAS, the ordinance proposed to the voters would establish a progressive business tax rate structure, updating and adjusting the City's business license tax rates to reflect current economic conditions, and allow for annual inflationary adjustments based on the specified consumer price index; and

WHEREAS, on **July 25, 2024**, the City Council held a public meeting to consider placing a commercial and residential vacancy tax ordinance before the voters of the City of Avenal at an election to be held on **November 5, 2024**.

UPON MOTION OF COUNCIL MEMBER **RAMIREZ** , SECONDED BY COUNCIL MEMBER **HERNANDEZ** , THE FOLLOWING WAS PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL AT AN OFFICIAL MEETING HELD **July 25, 2024,** BY THE FOLLOWING VOTE:

AYES: **Ramirez, Hernandez, Gravelle, Verdugo, Preciado**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

Alvaro Preciado, Mayor
CITY OF AVENAL

ATTEST:

MARIA A. ORTIZ, City Clerk
CITY OF AVENAL

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NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL:

FOUND the foregoing recitals to be true and ORDERED that an election be held within the City of Avenal on the **5th day of November, 2024,** for the purpose of submitting to all voters within the City a ballot measure with the following specifications:

1. Pursuant to the California Constitution, Article XIIIC, § 2(b), Government Code § 53724 and Elections Code § 9222, the City Council of the City of Avenal hereby calls and orders an election at which it shall submit to the qualified voters of the City, a measure relating to the adoption of a commercial and residential vacancy tax. This measure shall be designated by an alphabetical letter by the Kings County elections official or other qualified official, and the City Manager or designee shall in writing request one or more alphabetical letter designations.

2. The ordinance imposing a commercial and residential vacancy tax to be approved and adopted by the voters is set forth in **EXHIBIT A** attached hereto and incorporated by this reference. The City Council hereby approves said ordinance, the form thereof, and its submission to the voters of the City at an election to be held on **November 5, 2024**, as required by State law, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of the instant resolution. The ordinance enacts a commercial and residential vacancy tax at the rate of: $250 per square foot of the frontage of such spaces to each public right-of-way, if the space was not vacant the prior tax year; $500 per linear foot the frontage of such spaces to each public right-of-way, if the space

was kept vacant during two consecutive tax years; and $1,000 per linear foot of the frontage of such spaces to each public right-of-way in all other situations.

3. In accordance with Elections Code § 12111 and Government Code § 6061, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a newspaper of general circulation, printed, published and/or circulated in the City of Avenal and hereby designated for that purpose by the City Council of the City of Avenal. The City Clerk may enlist the assistance of the County of Kings elections office to prepare and publish the required notice.

4. Pursuant to the requirements of the laws of the State of California relating to cities within said State, the following proposed measure ballot label shall be added to the ballot for the **November 5, 2024**, election and thereby submitted to the voters of the City:

Shall Ordinance 2024-01 be adopted, (1) authorizing a vacancy tax on unused or unoccupied commercial spaces and uninhabited residences in the City of Avenal, up to $1,000 per linear foot of frontage, (2) setting transient occupancy tax at 15%, and (3) creating a progressive rate structure that would set business license tax rates from .05% to .475% of gross receipts, generating undetermined revenue, potentially up to $84,000 annually, until repealed?	Yes	☐
	No	☐

5. The full text of the ballot label appearing in the preceding section shall be printed in the sample and final ballots, but the full text of **Ordinance No. 2024-01** shall not be printed in the sample and final ballots and voter information guide. In compliance with Elections Code § 9223, the City Clerk shall promptly print, certify and post in the Office of the City Clerk and on the City's website, a copy of **Ordinance No. 2024-01** and the ballot label appearing in the preceding section, and shall provide a copy of them to any City voter upon request and free of charge.

6. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto.

7. The City Council hereby requests and consents to the County of Kings elections official's consolidation of this election with other elections, if any, which may be held in whole or in part of the territory of the City, as provided in Elections Code §§ 10400 *et seq*., on **November 5, 2024**, for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation.

8. The City Clerk may enlist the assistance of the County of Kings elections official in regard to the said consolidated general municipal election, as the City Clerk deems reasonably necessary or convenient.

9. The City will reimburse the County of Kings for the actual cost incurred by the county elections official in conducting the municipal election upon receipt of an invoice stating the amount due as determined by the elections official in accordance with all applicable laws. The City Manager is authorized to sign an appropriate written agreement between the City and the County of Kings for that purpose, following review and approval as to form by the City Attorney.

10. The election shall be held and conducted as provided by law for holding municipal elections.

11. The notice of the time and place of holding the election is given and the City Clerk is directed to give further or additional notice of the election in the time, form and manner as required by law. The City Clerk may enlist the assistance of the County of Kings elections office in regard to the same.

12. The City Clerk is hereby directed to submit to the City Attorney a certified copy of the measure pursuant to Elections Code § 9280. The City Attorney is hereby authorized and directed to prepare an impartial analysis of the ballot measure showing the effect of the measure on the existing law and operation of the measure, said analysis to be submitted by the City Attorney to the County of Kings elections office, or other appropriate office, for printing by the date set by the County of Kings elections official for the filing of arguments for and against the measure. The analysis shall not exceed five hundred (500) words in length and shall otherwise comply in all respects with the applicable provisions of the Elections Code.

13. In accordance with the provisions of the Elections Code §§ 9280 *et seq*., the Mayor or Mayor Pro Tempore or their designee from the City's staff is authorized and directed to submit an argument in support of the measure and a response to any argument in opposition to the measure.

14. The City Clerk in conjunction with the County of Kings election official shall fix and determine a date for submission of arguments for or against said measure, and said date shall be posted in the Office of the City Clerk.

15. The election on the measure set forth in sections 2 and 4 of this resolution shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in the Elections Code of the State of California, including but not limited to Elections Code § 10262(a)

pursuant to Elections Code § 10101 to the extent applicable. The Board of Supervisors of the County of Kings or other appropriate county official is authorized to canvas the returns of that election with respect to the votes cast in the City of Avenal and certify the results to the City Council. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered into its minutes a statement of the results of the election.

16. The City Manager or designee is hereby authorized and directed to expend the funds necessary and convenient to pay for the City's cost of placing the measure on the election ballot.

17. The City Clerk is hereby ordered to certify the adoption of this resolution and to file copies hereof, so certified, with the Clerk of the Board of Supervisors of the County of Kings and with the elections official of the County of Kings, and to enter it into the book of original resolutions; and

18. Authorized the Mayor, City Manager, City Clerk and the respective city and county election officials to carry out the terms and conditions of this resolution and to take all steps reasonably necessary, proper and/or convenient and/or incidental thereto, including the signing of any updated version of this resolution which is reasonably necessary to conform to the requirements of the County of Kings and applicable laws.

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CLERKS CERTIFICATE

City of Avenal }
County of Kings }
State of California }

I, Maria A. Ortiz, City Clerk of the City of Avenal, hereby certify that this is a full, true and correct copy of **Resolution No. 2024-34** duly passed by the City Council of the City of Avenal at a meeting thereof held on the **25th day of July, 2024**, by the vote as set forth therein.

DATED: **July 25, 2024**

ATTEST:

María A. Ortiz, City Clerk